Court No. 1

Civil Miscl Writ Petition No. 2997 (SS) of 2001
(Old No. 13166 of 1997)

Jagat Ram ……. Petitioner

Vs.

The District Magistrate,
Pauri Garhwal & others. …… Respondents

**……..**

**Hon. P.C. Verma, J.**

This Petition has been filed by the petitioner challenging the order dated 29.3.1997, by which the services of the petitioner was terminated by respondent No. 1 from the post of Junior Clerk, Tehsil –Dhumkot, District -Pauri Garhwal.

Some times in the year 1989 the posts of Junior Clerks were advertised by respondent No. 1 The petitioner applied for the appointment on one of the same posts and appeared in the written test/ interview on 21.8.1989, result of which was declared on 22.8.1989, which is contained in Annexure No. 2 to the writ petition. The petitioner was selected for appointment in the said written test/interview on the post of Junior clerk, but he was appointed as Seasonal Collection Amin. Later on, services of the petitioner was terminated on the ground that there was no sanction of the commissioner for appointment of Seasonal Collection Amin during that period. Then the petitioner was appointed on Class-IV post in the year 1990. Thereafter the petitioner was appointed on the post of Junior Clerk on ad-hoc basis on 05.1.1991 and after some time again he was posted on class-IV

post. Thereafter on the direction of the commissioner, Garhwal Division, Pauri (Garhwal) the petitioner was again temporarily appointed as Junior Clerk in the year 1994.

According to the termination order, the petitioner was not a regularly selected candidate for the post of Junior Clerk and he also did not complete five years service on Class-IV post. Therefore, he was not entitled to continue to hold the post of Junior Clerk. The petitioner was appointed in the year 1994 and the termination order was passed in the year 1997. Thus, the petitioner was appointed before the cut off date under the Regularisation Rules and according to the Regularisation Rules, the petitioner was entitled for regularisation even if the petitioner could not be treated to have been appointed after selection. The services of the petitioner could not have been terminated without considering him for regularization. The termination order dated 29.3.1997 does not indicate that the services of the petitioner has been terminated on the ground of unsuitability and for want of vacancy in the Department. The services of the petitioner was terminated only for the reason that the petitioner was not regularly selected candidate. This reason is otherwise contrary to the fact that the petitioner was selected in the year 1989 for the appointment on the post of Junior clerk which is evident from Annexure No. 2 to the writ petition.

Thus, for the reasons recorded above, the termination order cannot be sustained in the eye of law and the same is liable to be set aside.

In view of above, the writ Petition is allowed. The termination order dated 29.3.1997 is set aside. The petitioner shall be deemed to be continue in service. He shall get half of the back wages treating him to be in service during the termination period and that period shall also be counted for the purposes of other benefits in the service.

**(P.C. Verma, J.)**

**13.09.2001**
**P.Singh**